

From: [Patterson, Robin L CIV OPNAV, DNS-36](#)
To: (b) (6) [CTR OPNAV, DNS-36](#)
Cc: [Strong, Richard R CIV OPNAV](#)
Subject: FW: [Non-DoD Source] Re: FOIA Non-Compliance by Walter Reed (requests submitted 6...
Date: Thursday, September 07, 2017 9:40:58

FYI

Respectfully,

R. Patterson
Head, SECNAV/CNO FOIA/PA Program Office (DNS-36).
CNO Office of The Director, Navy Staff
Organization and Management Division
FOIA/PA Service Center 202 685-0412 DONFOIA-PA@NAVY.MIL

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com]
Sent: Thursday, September 07, 2017 7:06 AM
To: (b) (6) @mail mil
Cc: (b) (6) @mail mil; (b) (6) @mail mil; (b) (6) @mail mil;
(b) (6) @mail mil; (b) (6) @mail mil; (b) (6) @mail mil;
(b) (6) @dha.mil; (b) (6) @mail mil; (b) (6) @mail mil;
(b) (6) @med navy.mil; (b) (6) @mail mil; voiceofthecustomer@dha.mil;
(b) (6) @mail mil
Subject: [Non-DoD Source] Re: FOIA Non-Compliance by Walter Reed (requests submitted 6...

Dear Mr. Tillotson,

Unfortunately, I have not received any reply from DHA regarding the ostensive non-compliance in FOIA processing and false reporting discussed below. I have not received any response indicating that DHA has taken any action whatsoever to address this, including actions to preclude reoccurrence.

I am interested in the factual reasons for the ostensive non-compliance and false reporting. I am interested in what DHA is doing to begin factually reporting open FOIA requests and appeals as of the dates received (and in a related matter, open Privacy Act complaints).

I will very soon be referring this matter to the Department of Justice.

There may be many, many, many more emails to follow. The example below is just the tip of a very large iceberg.

With my deep respect,

Robert Hammond

-----Original Message-----

From: (b) (6) @aol.com>
To: (b) (6) @mail mil>
Cc: (b) (6) @mail.mil>
Sent: Sat, Feb 25, 2017 9:18 am
Subject: Re: FOIA Non-Compliance by Walter Reed (requests submitted 6...

Dear Mr. Tillotson,

I am forwarding the email thread below regarding the integrity of the Walter Reed/Defense Health Agency (DHA) FOIA (and Privacy Act (PA)) processes for your information or action as you may consider appropriate. This email thread of October 10, 2016 addresses some (of many) open FOIA requests dating back to FY 2014 that are almost

certainly not being reported on Annual FOIA Reports to the Attorney General. Moreover, earlier and subsequent FOIA requests are likely not being accurately reported and PA matters are almost certainly not being properly reported to Congress.

Unfortunately, Ms. (b) (6) who signs the DHA FOIA reports and is responsible for FOIA and HIPAA/PA compliance within DHA, has taken no action on this matter since she became aware of it several months ago. Moreover, no corrective action has been taken on many other FOIA/PA non-compliance matters dating back several years to the present. My personal observation is that non-complaint processes and inaccurate reporting may be ongoing at a significant level.

These are not "complex requests." One might ask why Walter Reed and DHA are fighting so hard to keep secret Walter Reed's FOIA report submissions, Walter Reed's FOIA, PA and mail room procedures and inspections records and Walter Reed's "Request for Amendment of Health Information" records.

One might surmise that these may be more management/leadership influence issues and DHA/Walter Reed legal staff advice that may not be in the best interest of the Department and individual employees rather than exclusively working-level employee intentional non-compliance issues. Consideration might be given to particular employees if that is the case.

Some have been rearranging deck chairs on the Titanic for many years. Now, there is only one lifeboat left within DoD and there aren't many seats left. This correspondence is being forwarded to others within DoD for situational awareness and to provide visibility. It may be also be forwarded to others later.

Thank you in advance for your consideration of these matters.

With my deep respect,

Robert Hammond

In a message dated 1/18/2017 8:53:00 A.M. Eastern Standard Time, (b) (6) @mail mil writes:

I will respond in due course. I am unable to give a precise date at this time. You have given us quite a number of actions to process.

(b) (6) JD, CIPP/G, PMP, CISSP
Chief, DHA Privacy and Civil Liberties Office
Office: 703-275-6363
Mobile: (b) (6)
(b) (6) @mail.mil

"Quality and Service Above All"

Please comment on our service at: VoiceoftheCustomer@dha.mil

-----Original Message-----

From: (b) (6) @aol.com [mailto:(b) (6) @aol.com <mailto:(b) (6) @aol.com?>

]

Sent: Tuesday, January 17, 2017 5:52 PM

To: (b) (6) CIV DHA PCL (US)

Cc: DHA NCR PCL Mailbox FOIA Requests; (b) (6) CIV DHA PCL (US); (b) (6) CTR (US); (b) (6) @mail.mil; (b) (6) @mail.mil; (b) (6) @mail mil; (b) (6) @aol.com; Bizzell, Judy J CIV DHA NCR MEDICAL DIR (US); Davidge, JOSEPH E (Joe) JR CIV DHA WRNMMC (US)

Subject: [Non-DoD Source] FOIA Non-Compliance by Walter Reed (requests submitted 6.2.2014 - 6.2.2014)

Dear Ms. (b) (6)

When might I receive your findings and results of action taken on each of the very serious FOIA non-compliance matters identified below. As previously noted, you are personally responsible for FOIA compliance and the accuracy of FOIA reporting via your reporting chain to the Attorney General of the United States.

Per DHA web site:

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"Freedom of Information Act (FOIA)

The Defense Health Agency (DHA) Freedom of Information Service Center has principal authority to ensure Health Affairs (HA), DHA, and its components are in full compliance with the FOIA.

Liaison Officer

If you are concerned about service received from the HA/DHA FOIA Service Center, please contact the FOIA Liaison Officer at:

Defense Freedom of Information Policy Office
ATTN: Ms. (b) (6)
Chief, Freedom of Information Service Center
Defense Health Agency
7700 Arlington Boulevard, Suite (b) (6)
Falls Church, VA 22042-5101
Phone: 1-703-275-6363"

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Thank you,

With my respect,

Robert Hammond

In a message dated 12/28/2016 6:18:42 A.M. Eastern Standard Time, (b) (6) @aol.com writes:

Dear Ms. Bizzell,

Please address the 15 matters below and provide me the status of each FOIA request.

Dear Ms. (b) (6) and Ms. (b) (6)

Please advise me of action taken to address these capacious and arbitrary violations of the FOIA and regulations and policies. Please address the 15 matters listed below.

Please preserve this correspondence in each FOIA case file until the longer of the statutory time for judicial review has passed or the NARA approved schedule.

With my respect,

Robert Hammond

In a message dated 12/2/2016 8:44:12 A.M. Eastern Standard Time, (b) (6) @aol.com writes:

with attachment.

In a message dated 12/2/2016 8:42:48 A.M. Eastern Standard Time, (b) (6) @aol.com writes:

Dear Ms. Bizzell,

You have not addressed the important matters in this correspondence which was sent to you via email, fax and mail. In particular, you have not addressed the delayed processing and delayed assignment of tracking numbers to my requests at the time - and within the same fiscal year - that they were submitted. Moreover, you have not acknowledged my request for Walter Reed's FY 2014 Annual FOIA Report Submission records. I contend that your FY 2014 report submission is inaccurate and incomplete.

Regarding tracking numbers, FOIA requires that "each agency shall establish a system to assign an individualized tracking number for each request received that will take longer than ten days to process and provide to each person making a request the tracking number assigned to the request" 5 U.S.C. § 522(a)(7)(A).

Your actions and failure to act, together with the those actions and failures to act of the Walter Reed Department Chief, HIPAA/Privacy Act/FOIA/Civil Liberties Office, [Redacted] constitute clear violations of the Freedom of Information Act and governing regulations and policies that go to the heart of the integrity of the FOIA process and the accuracy of FOIA reporting via your reporting chain to the Attorney General of the United States.

Ms. (b) (6)

Your office has responsibility for FOIA compliance within DHA and any errors or omissions in Walter Reed's FOIA reporting to you affects the accuracy and integrity of the DHA Annual FOIA report submissions. You have previously been provided numerous examples of potential violations and inaccurate reporting. These matters are worthy of Senior Leadership attention and are instructive for your staff members on this email.

I am requesting that you acknowledge this correspondence by return email to all and that you promptly open an investigation to address the matters in this correspondence. Hard copy will be faxed and mailed to you.

Thank you,

With my respect,

Robert Hammond

From: (b) (6) @aol.com
To: (b) (6) @mail mil, (b) (6) @mail mil, (b) (6) @mail mil
CC: dha ncr.pcl mbx foia-requests@mail mil, (b) (6) @mail mil,
(b) (6) @mail.mil, (b) (6) @mail mil, (b) (6) @mail.mil,
(b) (6) @mail.mil, (b) (6) @aol.com
Sent: 11/3/2016 6:14:03 A.M. Eastern Daylight Time
Subj: Re: FOIA's Received

Dear Ms. Bizzell,

Your extraordinarily delayed reply and assignment of fiscal year (FY) 2017 FOIA tracking numbers

to these prior FY FOIA requests in your email below, many of which were submitted to you over two years ago, suggests a lack of integrity in Walter Reed's FOIA processing as well as a lack of integrity and accuracy of your annual FOIA report submissions via your reporting chain to the Attorney General of the United States. This is worthy of senior leadership and Defense Health Agency (DHA) Privacy and Civil Liberties Office oversight attention and action. Your annual FOIA report submissions also impact the accuracy of those within your reporting chain, which has been the subject of significant correspondence with Walter Reed and DHA dating back to 2013.

Please reply to all parties on this email when addressing the FIFTEEN action items in this email.

For your convenience, I am including as "Attachment A" a 44 page PDF file containing the relevant initial FOIA submissions to you, which are summarized in the table below. The table omits some intervening FOIA requests so as not to confuse matters; however, FOIA tracking numbers and Walter Reed responses are due for those as well.

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My Personal
Requester CTRL #

Title/Subject

Date
Submitted

Best Guess of WRNMMC
Agency
Assigned # (?)

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WRNMC #14-X

WRNMMC Correspondence containing Six D Forms 2870

6/2/2014

17-01

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WRNMC#14-AA

WRNMMC Mail Room Procedures

7/27/2014

17-02

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WRNMC#14-AB

WRNMMC FOIA Instructions, SOPs, Desk Guides

9/2/2014

17-04

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WRNMC#14-AC

WRNMMC Privacy Act (PA) and Health Insurance Portability Accountability Act (HIPAA) Instructions, SOPs, Desk Guides

9/2/2014

17-05

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WRNMC#14-AD

WRNMMC FOIA Office Scanner Repair

9/2/2014

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WRNMC#14-AE

Privacy Act (PA)/ Health Insurance Portability and Accountability Act (HIPAA) Training Completed by the WRNMMC Department Chief, IDP AAI Privacy Act/FOIA/Civil Liberties Office

9/2/2014

17-03

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WRNMC#14-AF

WRNMMC Privacy Office Inspections

9/2/2014

17-14

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WRNMMC #15-B

FOIA WRNMMC #15-B Form Entitled "Request for Amendment of Health Information

6/20/2015

17-15

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WRNMMC #15-C

Privacy Act Requests From January 1, 2013

6/20/2015

17-06

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WRNMC #16-A

Records Associated With Request for Correction of Medical Record Entries of Ms. (b) (6), and Ms. (b) (6) (subsequently known as (b) (6))

11/8/2015

17-07

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WRNMC #16-B

Records of Inpatient Disclosure for Hammond, Robert for June 28th 2007 to June 29th 2013

11/8/2015

17-16

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WRNMC #16-C

Medical Records Correction Request - MHT (b) (6). CIV 3374

11/8/2015

17-08

WRNMC #16-D

Records Associated Medical Records Correction Request 1to 1 Sitter/Catheter

11/8/2015

17-09

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WRNMC #16-E

Medical Records Correction Request - Laboratory values

1/8/2015

17-10

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WRNMMC #16-F

FY 2015 Annual FOIA Report Supporting Records

9/19/2016

17-11

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WRNMMC #16-G

FY 2014 Annual FOIA Report Supporting Records

9/19/2016

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Please address the following:

1. Please address your assignment of a fiscal year 2017 FOIA tracking number for each of the FOIA requests noted above and in Attachment A along with your rationale for not assigning a FOIA tracking number in the correct fiscal year when each request was received.
2. Please address the non-sequential tracking numbers and gaps in your FY 2017 tracking numbers. You don't get to pick/alter the order in which requests are recorded as received in order to sequence them for processing.
3. Please address the omission of my Request #14-AD seeking records of the WRNMMC FOIA Office Scanner Repair, which was submitted after you alleged that Walter Reed did not have the capability to create PDF files in order to reply to my requests in the required format. PDF files remove any ambiguity in the what records were/are sent in reply to my FOIA requests, as some of past assertions of records provided in paper form are not factual.
4. Please address your omission of my Request 15-G seeking your FY 2014 Annual FOIA Report Supporting Records.
5. Please provide for each request the projected date of Walter Reed's reply providing your determination of each request with release of responsive records (or the statutory basis for denial thereof), the reason for delay in processing and if you are asserting that any request is complex.

6. Please indicate if you did not receive each FOIA request on the date indicated above and in Attachment A.

7. Please indicate if you entered each request in your FOIA tracking log at the time that it was submitted/received.

8. Please indicate why no FOIA tracking number was assigned within ten days of the dates noted above and in Attachment A.

9. In recent adjudication of HIPAA matters and FOIA mediation, statements have been attributed to you specifically and/or your office that you did not receive certain FOIA request submissions. Please indicate if it is your assertion that you did not receive any of the emails in Attachment A and if so the circumstances supporting your assertion.

10. It now appears that you and the Walter Reed FOIA and legal staffs may be preparing to assert (as a feeble explanation for inaccurate FOIA reporting and non-compliance with governing laws, regulations and policies) that Walter Reed does not respond to FOIA requests submitted by email [and accompanying fax], which has not been your past practice. You have been communicating with me by email at this email address continuously since 2013, responding to requests, follow-ups and various other matters, and you have never notified me of such a policy (despite FOIA requests seeking your policies and procedures). Both you and Mr. Davidge were recently each provided DVDs containing relevant email correspondence, which you acknowledge receiving thereby enabling you both to access each and every email. Please state for the record whether or not you and/or Walter Reed are asserting that Walter Reed does not respond to FOIA requests submitted by email and if that is your assertion when that policy/practice went into effect and who was notified of the change.

11. In recent adjudication of HIPAA matters and FOIA mediation, statements have been attributed to you specifically and/or your office that you spoke to me by telephone regarding FOIA requests, which is **FACTUALLY INCORRECT**. In fact, Walter Reed abruptly withdrew from mediation regarding a 2013 FOIA request (that you acknowledge receiving in FY 2013) when challenged on that factually incorrect assertion and asked to provide any and contemporaneous records supporting the false statement(s). You have never spoken to me on the phone and my only telephonic contact with your office was with Mr. [Redacted] in early 2013 when Mr. [redacted] initiated phone contact to falsely state that two medical professionals were no longer assigned to Walter Reed and that Walter Reed therefore had no responsible to address medical record amendment requests related to them.

a. Please state for the record if it is your assertion that you have spoken to me by telephone at any time whatsoever and if that is your assertion please identify the time, date, call initiator and any and all contemporaneous records supporting your assertion (such as entries in your FY 2013 FOIA processing log, etc.).

12. Please note that for each request, the records sought are as of the time and date of each request as indicated above and Attachment A. For example, my FOIA Request #14-AB seeks WRNMMC (Walter Reed) FOIA Instructions, SOPs, Desk Guides that existed at the time of my request on September 2, 2014 and my FOIA Request #15-B seeks records related to the Form Entitled "Request for Amendment of Health Information" as of the time of my request on June 20, 2015.

13. Please identify if notification of any of my requests was forwarded to any other party prior to my follow-up emails to you of September 11, 2016 and if so your purpose in doing so and to whom each such request was forwarded. Please note that any destruction of records following the date and time indicate in the emails contained in Attachment A would be a violation of governing laws, regulations and policies.

14. Attachment B contains 59 pages of my most recent follow-up emails to you of September 11, 2016 regarding these requests. Please indicate if you did not receive each of the emails in Attachment B on September 11, 2016 and if it is your assertion that you did not receive any email, please indicate the circumstances as to why you did not.

15. Please state for the record what dates you assert that you received Attachment A and Attachment B. Your delayed reply suggests internal manipulation of receipt dates in order to cover up non-compliance with governing laws regulations and policies.

There is significant public interest in the integrity of the FOIA process and the accuracy of FOIA reporting to the Attorney General of the United States as well as the subject matter of each request.

Thank you.

With my respect,

Robert Hammond

In a message dated 10/11/2016 6:39:00 P.M. Eastern Daylight Time, (b) (6) @mail.mil writes:

Mr. Robert Hammond

(b) (6)

SUBJECT: Freedom of Information Act Requests

Dear Mr. Hammond:

The following Freedom of information Act requests have been received in this Office: Your 2016-E; 16-D; 16-A; 16-C; 16-B; 15-C; 15-B; 14-AF; 14-AE; 14-AD; 14-X; 14-AC; 14-AB and 14-AA.

Due to the sheer volume of requests received, along with other requests, they have not been reviewed in full at this time. Each request is being reviewed and you will receive a tracking numbers (if applicable) no later than 21 October 2016.

If you have questions please respond to this email or call (b) (6).

Sincerely,

Judy J. Bizzell
Freedom of Information Act Officer
Walter Reed National Military Medical Center
8901 Wisconsin Ave
Bethesda, MD 20889